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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91222765
Party	Plaintiff TBB America, LLC, Anthony Palombino
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Submission	Motion to Extend
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Date	03/16/2016
Attachments	Boom Boom Pizza Motion.pdf(7461 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of Trademark Application Serial No. 86/321,097
Mark: BOOM BOOM PIZZA

ANTHONY PALOMBINO
and
TBB AMERICA, LLC

Opposition No. 91222765

Opposers

v.

ROBERT AND MICHAELA MORGAN DBA BOOM BOOM PIZZA
A/K/A
BOOM BOOM LLC
A/K/A
BOOM BOOM PIZZA

Applicant

OPPOSERS' MOTION FOR AN EXTENSION OF DEADLINES

Pursuant to 37 CFR 2.120(a)(2), Anthony Palombino and TBB America, LLC (collectively, "Opposers") hereby move the Trademark Trial and Appeal Board ("Board") for an extension of the discovery period in this matter. The current discovery period is set to close on March 16, 2016. On February 19, 2016, Opposers filed a motion for leave to file an amended notice of opposition based on new information that Applicant had abandoned its applied-for mark. The Board has not yet ruled on that motion. In light of the pending motion, and for the reasons explained below, Opposers move the Board to (1) extend the deadline to complete discovery to thirty days past the date on which the Board rules on Opposers' motion for leave to file an amended notice of opposition and (2) extend all other deadlines by a corresponding period of time.

(1) As of November 3, 2015, Opposers and Applicant agreed to the terms of a settlement, contingent upon the execution of a formal settlement agreement. Counsel for Opposers sent a draft settlement agreement to counsel for Applicant.

(2) Applicant did not respond to the draft settlement agreement, despite multiple follow-up inquiries by Opposers' counsel.

(3) While discussing settlement, Opposers and Applicant agreed to stay discovery.

(4) On February 5, 2016, counsel for Applicant contacted counsel for Opposers and informed counsel for Opposers that Applicant had ceased business operations and did not intend to continue using Applicant's applied-for mark or defend the opposition proceeding.

(5) Applicant further refused to execute the agreed upon settlement and has not responded to any discovery requests.

(6) Based upon the information regarding Applicant's abandonment of its mark and the failure of Applicant to respond to discovery, Opposers filed a motion for leave to file an amended notice of opposition on February 19, 2016 to add abandonment of the mark as a basis for opposition.

(7) Contemporaneous with the filing of Opposers' motion for leave, Opposers served additional written discovery on Applicant related to Applicant's abandonment of the applied for mark.

(8) Applicant has not responded to the supplemental discovery requests.

(9) The Board has not yet ruled on Opposers' motion for leave.

(10) The discovery period should be extended 30 days beyond the date that the Board rules on Opposers' motion for leave to permit full discovery on the new claims presented in the amended notice of opposition.

(11) All other deadlines set in this matter should likewise be extended pending resolution of Opposers' motion for leave.

(12) Opposers ask that the Board extend all remaining deadlines a corresponding length of time as the extension of the discovery period, such that the time between the extended deadlines will be the same as the time between the initial deadlines.

Dated: March 16, 2016

Respectfully submitted,

/Laura H. Pulliam/

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*Counsel for Opposers, Anthony
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CERTIFICATE OF SERVICE

I hereby certify that, on this 16th day of March, 2016, a copy of the foregoing OPPOSERS' MOTION FOR AN EXTENSION OF DEADLINES was served by electronic mail upon Applicant's counsel of record as follows:

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/Laura H. Pulliam/

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